

Frederick Engels

Anti-Dühring

1877

Part I: Philosophy

Morality and Law, Chapter 11,

Freedom and Necessity



[Frederick Engels, 1820-1895](#)

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"In the sphere of politics and law the principles expounded in this course are based on the most exhaustive specialised studies. It is therefore ... necessary to proceed from the fact that what we have here ... is a consistent exposition of the conclusions reached in the sphere of legal and political science. Jurisprudence was my original special subject and I not only devoted to it the customary three years of theoretical university preparation, but also, during a further three years of court practice continued to study it particularly with a view to the deepening of its scientific content... And certainly the critique of private law relationships and the corresponding legal inadequacies could not have been put forward with such confidence but the consciousness that all the weaknesses of the subject were known to it as well as its stronger sides" {D. Ph. 537}.

A man who is justified in saying this of himself must from the outset inspire confidence, especially in contrast with the

"one-time, admittedly neglected, legal studies of Herr Marx" {D. K. G. 503}.

And for that reason it must surprise us to find that the critique of private law relationships which steps on to the stage with such confidence is restricted to telling us that

"the scientific character of jurisprudence has not developed far" {D. Ph. 222-23}, that positive civil law is injustice in that it sanctions property based on force {219} and that the "natural basis" of criminal law is revenge {224}, —

an assertion of which in any case the only thing new is its mystical wrapping of "natural basis". The conclusions in political science are limited to the transactions of the famous three men, one of whom has hitherto held down the others by force, with Herr Dühring in all seriousness conducting an investigation into whether it was the second or the third who first introduced violence and subjection {265-66}.

However, let us go a little more deeply into our confident jurist's most exhaustive specialised studies and his erudition deepened by three years of court practice.

Herr Dühring tells us of Lassalle that

he was prosecuted for "inciting to an attempt to steal a cash-box" but that "no sentence by the court could be recorded, as the so-called acquittal for lack of evidence, which was then still possible, supervened ... this half acquittal" {D. K. G. 510}.

The Lassalle case referred to here came up in the summer of 1848, before the assizes at Cologne, ^[53] where, as in almost the whole of the Rhine Province, French criminal law was in force. Prussian law had been introduced by way of exception only for political offences and crimes, but already in April 1848 this exceptional application had been abrogated by Camphausen. French law has no knowledge whatever of the loose Prussian legal category of "inciting" to a crime, let alone inciting to an attempt to commit a crime. It knows only *instigation* to crime, and this, to be punishable, must have been committed "by means of gifts, promises, threats, abuse of authority or of power, culpable incitements or artifices" (*Code penal*, art. 60). ^[54] The Ministry of State, steeped in Prussian law, overlooked, just as Herr Dühring did, the essential difference between the sharply defined French code and the vague indefiniteness of Prussian law and, subjecting Lassalle to a tendentiously conducted trial, egregiously failed in the case. Only a person who is completely ignorant of modern French law can venture to assert that French criminal procedure permitted the Prussian legal form of an acquittal for lack of evidence, this *half* acquittal; criminal procedure under French law provides only for conviction or acquittal, nothing between.

And so we are forced to say that Herr Dühring would certainly not have been able to perpetrate this "historical depiction in the grand style" {556} against Lassalle if he had ever had the *Code Napoléon* ^[55] in his hands. We must therefore state as a fact that modern French law, the *only* modern civil code, which rests on the social achievements of the great French Revolution and translates them into legal form, is *completely unknown* to Herr Dühring.

In another place, in the criticism of trial by jury with majority decision which was adopted throughout the Continent in accordance with the French model, we are taught:

"Yes, it will even be possible to familiarise oneself with the idea, which for that matter is not without precedent in history, that a conviction where opinion is divided should be one of the impossible institutions in a perfect community {D. Ph. 402} ... This important and profoundly intelligent mode of thought, however, as already indicated above, must seem unsuitable for the traditional forms, because it is too good for them {D. Ph. 403}.

Once again, Herr Dühring is ignorant of the fact that under English common law, i.e., the unwritten law of custom which has been in force since time immemorial, certainly at least since the fourteenth century, unanimity of the jury is absolutely essential, not only for convictions in criminal cases but also for judgments in civil suits. Thus the important and profoundly intelligent mode of thought, which according to Herr Dühring is *too good* for the present-day world, had had legal validity in England as far back as the darkest Middle Ages, and from England it was brought to Ireland, the United States of America and all the English colonies. And yet the most exhaustive specialised studies failed to reveal to Herr Dühring even the faintest whisper of all this! The area in which a unanimous verdict by the jury is required is therefore not only infinitely greater than the tiny area where Prussian law is in force, but is also more extensive than all the areas taken together in which juries decide by majority vote. Not only is French law, the only modern law, totally unknown to Herr Dühring; he is equally ignorant of the only Germanic law which has developed independently of Roman authority up to the present day and spread to all parts of the world — English law. And why does Herr Dühring know nothing of it? Because the English brand of the juridical mode of thought

"would anyhow not be able to stand up against the schooling in the pure concepts of the classical Roman jurists given on German soil" {D. K. G. 456},

says Herr Dühring; and he says further:

"what is the English-speaking world with its childish hodgepodge language as compared with our natural language structure?" {D. Ph. 315.}

To which we might answer with Spinoza: *Ignorantia non est argumentum*. Ignorance is no argument. [\[56\]](#)

We can accordingly come to no other final conclusion than that Herr Dühring's most exhaustive specialised studies consisted in his absorption for three years in the theoretical study of the *Corpus juris*, ^[57] and for a further three years in the practical study of the noble Prussian law. That is certainly quite meritorious, and would be ample for a really respectable district judge or lawyer in old Prussia. But when a person undertakes to compose a legal philosophy for all worlds and all ages, he should at least have some degree of acquaintance with legal systems like those of the French, English and Americans, nations which have played quite a different role in history from that played by the little corner of Germany in which Prussian law flourishes. But let us follow him further.

"The variegated medley of local, provincial and national laws, which run counter to one another in the most various directions, in very arbitrary fashion, sometimes as common law, sometimes as written law, often cloaking the most important issues in a purely statutory form — this pattern-book of disorder and contradiction, in which particular points override general principles, and then at times general principles override particular points — is really not calculated to enable anyone to form a clear conception of jurisprudence" {278}.

But where does this confusion exist? Once again, within the area where Prussian law holds sway, where alongside, over or under this law there are provincial laws and local statutes, here and there also common law and other trash, ranging through the most diverse degrees of relative validity and eliciting from all practicing jurists that scream for help which Herr Dühring here so sympathetically echoes. He need not even go outside his beloved Prussia — he need only come as far as the Rhine to convince himself that all this ceased to be an issue there for the last seventy years — not to speak of other civilised countries, where these antiquated conditions have long since been abolished.

Further:

"In a less blunt form the natural responsibility of individuals is screened by means of secret and therefore anonymous collective decisions and actions on the part of collegia or other institutions of public authority, which mask the personal share of each separate member" {218}.

And in another passage:

"In our present situation it will be regarded as an astonishing and extremely stern demand if one opposes the glossing over and covering up of individual responsibility through the medium of collective bodies" {402}.

Perhaps Herr Dühring will regard it as an astonishing piece of information when we tell him that in the sphere of English law each member of a judicial bench has to give his decision separately and in open court, stating the grounds on which it is based; that administrative collective bodies which are not elected and do not transact business or vote publicly are essentially a *Prussian* institution and are unknown in most other countries, and that therefore his demand can be regarded as astonishing and extremely stern only — in *Prussia*.

Similarly, his complaints about the compulsory introduction of religious practices in birth, marriage, death and burial {407} apply to Prussia alone of all the greater civilised countries, and since the adoption of civil registration they no longer apply even there. ^[58] What Herr Dühring can accomplish only by means of a future "socialitarian" state of things, even Bismarck has meanwhile managed by means of a simple law. — It is just the same with his "plaint over the inadequate preparation of jurists for their profession" {501}, a plaint which could be extended to cover the "administrative officials" {503} — it is a specifically Prussian jeremiad; and even his hatred of the Jews, which he carries to ridiculous extremes and exhibits on every possible occasion, is a feature which if not specifically Prussian is yet specific to the region east of the Elbe. That same philosopher of reality who has a sovereign contempt for all prejudices and superstitions is himself so deeply immersed in personal crotchets that he calls the popular prejudice against the Jews, inherited from the bigotry of the Middle Ages, a "natural judgment" based on "natural grounds", and he rises to the pyramidal heights of the assertion that

"socialism is the only power which can oppose population conditions with a rather strong Jewish admixture" {D. Ph. 393}. (Conditions with a Jewish admixture! What "natural" German!)

Enough of this. The grandiloquent boasts of legal erudition have as their basis — at best — only the most commonplace professional knowledge of quite an ordinary jurist of old Prussia. The sphere of legal and political science, the attainments in which Herr Dühring consistently expounds, "coincides" with the area where Prussian law holds sway. Apart from the Roman law, with which every jurist is fairly familiar, now even in England, his knowledge of law is confined wholly and entirely to Prussian law — that legal code of an enlightened patriarchal despotism which is written in a German such as Herr Dühring appears to have been trained in, and which, with its moral glosses, its juristic vagueness and inconsistency, its caning as a means of torture and punishment, belongs entirely to the pre-revolutionary epoch. Whatever exists beyond this Herr Dühring regards as evil [Matthew 5:37 — *Ed.*] — both modern civil French law, and English law with its quite peculiar development and its safeguarding of personal liberty, unknown anywhere on the Continent. The philosophy which "does not allow the validity of any merely *apparent* horizon, but

in its powerfully revolutionising movement unfolds all earths and heavens of outer and inner nature" {430} — has as its *real* horizon — the boundaries of the six eastern provinces of old Prussia, ^[59] and in addition perhaps the few other patches of land where the noble Prussian law holds sway; and beyond this horizon it unfolds neither earths nor heavens, neither outer nor inner nature, but only a picture of the crassest ignorance of what is happening in the rest of the world.

It is hard to deal with morality and law without coming up against the question of so-called free will, of man's mental responsibility, of the relation between necessity and freedom. And the philosophy of reality also has not only one but even two solutions of this problem.

"All false theories of freedom must be replaced by, what we know from experience is the nature of the relation between rational judgment on the one hand and instinctive impulses on the other, a relation which so to speak unites them into a resultant force. The fundamental facts of this form of dynamics must be drawn from observation, and for the calculation in advance of events which have not yet occurred must also be estimated, as closely as possible, in general both as to their nature and magnitude. In this manner the silly delusions of inner freedom, which people have chewed on and fed on for thousands of years, are not only cleared away in thoroughgoing fashion, but are replaced by something positive, which can be made use of for the practical regulation of life" {187}.

Viewed thus freedom consists in rational judgment pulling a man to the right while irrational impulses pull him to the left, and in this parallelogram of forces the actual movement proceeds in the direction of the diagonal. Freedom is therefore the mean between judgment and impulse, reason and unreason, and its degree in each individual case can be determined on the basis of experience by a "personal equation", to use an astronomical expression. ^[60] But a few pages later on we find:

"We base moral responsibility on freedom, which however means nothing more to us than susceptibility to conscious motives in accordance with our natural and acquired intelligence. All such motives operate with the inevitability of natural law, notwithstanding an awareness of possible contrary actions; but it is precisely on this unavoidable compulsion that we rely when we apply the moral levers" {218}.

This second definition of freedom, which quite unceremoniously gives a knock-out blow to the first one, is again nothing but an extreme vulgarisation of the Hegelian conception. Hegel was the first to state correctly the relation between freedom and

necessity. To him, freedom is the insight into necessity (*die Einsicht in die Notwendigkeit*).

"Necessity is blind only in so far as it is not understood [begriffen]."

Freedom does not consist in any dreamt-of independence from natural laws, but in the knowledge of these laws, and in the possibility this gives of systematically making them work towards definite ends. This holds good in relation both to the laws of external nature and to those which govern the bodily and mental existence of men themselves — two classes of laws which we can separate from each other at most only in thought but not in reality. Freedom of the will therefore means nothing but the capacity to make decisions with knowledge of the subject. Therefore the *freer* a man's judgment is in relation to a definite question, the greater is the *necessity* with which the content of this judgment will be determined; while the uncertainty, founded on ignorance, which seems to make an arbitrary choice among many different and conflicting possible decisions, shows precisely by this that it is not free, that it is controlled by the very object it should itself control. Freedom therefore consists in the control over ourselves and over external nature, a control founded on knowledge of natural necessity; it is therefore necessarily a product of historical development. The first men who separated themselves from the animal kingdom were in all essentials as unfree as the animals themselves, but each step forward in the field of culture was a step towards freedom. On the threshold of human history stands the discovery that mechanical motion can be transformed into heat: the production of fire by friction; at the close of the development so far gone through stands the discovery that heat can be transformed into mechanical motion: the steam-engine. — And, in spite of the gigantic liberating revolution in the social world which the steam-engine is carrying through, and which is not yet half completed, it is beyond all doubt that the generation of fire by friction has had an even greater effect on the liberation of mankind. For the generation of fire by friction gave man for the first time control over one of the forces of nature, and thereby separated him for ever from the animal kingdom. The steam-engine will never bring about such a mighty leap forward in human development, however important it may seem in our eyes as representing all those immense productive forces dependent on it — forces which alone make possible a state of society in which there are no longer class distinctions or anxiety over the means of subsistence for the individual, and in which for the first time there can be talk of real human freedom, of an existence in harmony with the laws of nature that have become known. But how young the whole of human history still is, and how ridiculous it would be to attempt to ascribe any absolute validity to our present views, is evident from the simple fact that all past history can be characterised as the history of the epoch from the practical discovery of the

transformation of mechanical motion into heat up to that of the transformation of heat into mechanical motion.

True, Herr Dühring's treatment of history is different. In general, being a record of error, ignorance and barbarity, of violence and subjugation, history is a repulsive object to the philosophy of reality; but considered in detail it is divided into two great periods, namely (1) from the self-equal state of matter up to the French Revolution, (2) from the French Revolution up to Herr Dühring; the nineteenth century remains

"still in essence reactionary, indeed from the intellectual standpoint even more so" (!) "than the eighteenth". Nevertheless, it bears socialism in its womb, and therewith "the germ of a mightier regeneration than was fancied" (!) "by the forerunners and the heroes of the French Revolution" {D. Ph. 301}.

The philosophy of reality's contempt for all past history is justified as follows:

"The few thousand years, the historical retrospection of which has been facilitated by original documents, are, together with the constitution of mankind so far, of little significance when one thinks of the succession of thousands of years which are still to come... The human race as a whole is still very young, and when in time to come scientific retrospection has tens of thousands instead of thousands of years to reckon with, the intellectually immature childhood of our institutions becomes a self-evident premise undisputed in relation to our epoch, which will then be revered as hoary antiquity" {302}.

Without dwelling on the really "natural language structure" of the last sentence, we shall note only two points. Firstly, that this "hoary antiquity" will in any case remain a historical epoch of the greatest interest for all future generations, because it forms the basis of all subsequent higher development, because it has for its starting-point the moulding of man from the animal kingdom, and for its content the overcoming of obstacles such as will never again confront associated mankind of the future. And secondly, that the close of this hoary antiquity — in contrast to which the future periods of history, which will no longer be kept back by these difficulties and obstacles, hold the promise of quite other scientific, technical and social achievements — is in any case a very strange moment to choose to lay down the law for these thousands of years that are to come, in the form of final and ultimate truths, immutable truths and deep-rooted conceptions discovered on the basis of the intellectually immature childhood of our so extremely "backward" and "retrogressive" century. Only a Richard Wagner in philosophy — but without

Wagner's talents — could fail to see that all the depreciatory epithets slung at previous historical development remain sticking also on what is claimed to be its final outcome — the so-called philosophy of reality.

One of the most significant morsels of the new deep-rooted science {219} is the section on individualisation and increasing the value of life. In this section oracular commonplaces bubble up and gush forth in an irresistible torrent for three full chapters. Unfortunately we must limit ourselves to a few short samples.

"The deeper essence of all sensation and therefore of all subjective forms of life rests on the difference between states... But for a full" (!) "life it can be shown without much trouble" (!) "that its appreciation is heightened and the decisive stimuli are developed, not by persistence in a particular state, but by a transition from one situation in life to another... The approximately self-equal state which is so to speak in permanent inertia and as it were continues in the same position of equilibrium, whatever its nature may be, has but little significance for the testing of existence... Habituation and so to speak inurement makes it something of absolute indifference and unconcern, something which is not very distinct from deadness. At most the torment of boredom also enters into it as a kind of negative life impulse... A life of stagnation extinguishes all passion and all interest in existence, both for individuals and for peoples. But it is our law of difference through which all these phenomena become explicable" {D. Ph. 362-63}.

The rapidity with which Herr Dühring establishes his from the ground up original conclusions passes all belief. The commonplace that the continued stimulation of the same nerve or the continuation of the same stimulus fatigues each nerve or each nervous system, and that therefore in a normal condition nerve stimuli must be interrupted and varied — which for years has been stated in every textbook of physiology and is known to every philistine from his own experience — is first translated into the language of the philosophy of reality. No sooner has this platitude which is as old as the hills, been translated into the mysterious formula that the deeper essence of all sensation rests on the difference between states, than it is further transformed into "*our* law of difference". And this law of difference makes "absolutely explicable" a whole series of phenomena which in turn are nothing more than illustrations and examples of the pleasantness of variety and which require no explanation whatever even for the most common philistine understanding and gain not the breadth of an atom in clarity by reference to this alleged law of difference.

But this far from exhausts the deep-rootedness of "*our* law of difference" {219}.

"The sequence of ages in life, and the emergence of different conditions of life bound up with it, furnish a very obvious example with which to illustrate our principle of difference... Child, boy, youth and man experience the intensity of their appreciation of life at each stage not so much when the state in which they find themselves has already become fixed, as in the periods of transition from one to another" {363}.

Even this is not enough.

"Our law of difference can be given an even more extended application if we take into consideration the fact that a repetition of what has already been tried or done has no attraction" {365}.

And now the reader can himself imagine the oracular twaddle for which sentences of the depth and deep-rootedness of those cited form the starting-point. Herr Dühring may well shout triumphantly at the end of his book:

"The law of difference has become decisive both in theory and in practice for the appraisal and heightening of the value of life!" {558}

This is likewise true of Herr Dühring's appraisal of the intellectual value of his public: he must believe that it is composed of sheer asses or philistines. We are further given the following extremely practical rules of life:

"The method whereby total interest in life can be kept active" (a fitting task for philistines and those who want to become such!) "consists in allowing the particular and so to speak elementary interests, of which the total interest is composed, to develop or succeed each other in accordance with natural periods of time. Simultaneously, for the same state the succession of stages may be made use of by replacing the lower and more easily satisfied stimuli by higher and more permanently effective excitations in order to avoid the occurrence of any gaps that are entirely devoid of interest. However, it will be necessary to ensure that the natural tensions or those arising in the normal course of social existence are not arbitrarily accumulated or forced or — the opposite perversion — satisfied by the lightest stimulation, and thus prevented from developing a want which is capable of gratification. In this as in other cases the maintenance of the natural rhythm is the precondition of all harmonious and agreeable movement. Nor should anyone set before himself the insoluble problem of trying to prolong the stimuli of any situation beyond the period allotted them by nature or by the circumstances" {375} — and so on.

The simpleton who takes as his rule for the "testing of life" these solemn oracles of philistine pedantry subtilising over the shallowest platitudes will certainly not have to complain of "gaps entirely devoid of interest". It will take him all his time to prepare his pleasures and get them in the right order, so that he will not have a moment left to enjoy them.

We should try out life, full life. There are only two things which Herr Dühring prohibits us:

first "the uncleanness of indulging in tobacco", and secondly drinks and foods which "have properties that rouse disgust or are in general obnoxious to the more refined feelings" {261}.

In his course of political economy, however, Herr Dühring writes such a dithyramb on the distilling of spirits that it is impossible that he should include spirituous liquor in this category; we are therefore forced to conclude that his prohibition covers only wine and beer. He has only to prohibit meat, too, and then he will have raised the philosophy of reality to the same height as that on which the late Gustav Struve moved with such great success — the height of pure childishness. For the rest, Herr Dühring might be slightly more liberal in regard to spirituous liquors. A man who, by his own admission still cannot find the bridge from the static to the dynamic {D. Ph. 80} has surely every reason to be indulgent in judging some poor devil who has for once dipped too deep in his glass and as a result also seeks in vain the bridge from the dynamic to the static.

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